

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

DEMARIO DONTEZ WALKER, #L1625

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:08-cv-221-DCB-MTP

REGINALD L. JACKSON, et al.

DEFENDANTS

ORDER

BEFORE the Court is Plaintiff's motion [10] to reconsider the "strike" portion of the Final Judgment entered in this cause. On July 14, 2008, this Court entered a Memorandum Opinion and Final Judgment dismissing this case as malicious pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).¹ Since this case was dismissed pursuant to the above mentioned provision of the Prison Litigation Reform Act, it counts as a "strike" under 28 U.S.C. § 1915(g). This Court does not have the authority to alter the "strike portion" of the dismissal. Furthermore, the Court finds Plaintiff's assertion that he filed this case under a mistaken belief that the relevant pending case, 5:08cv147, was either "not accepted or dismissed" to be disingenuous. A cursory review of the filings in both cases and the dates the pleadings were filed clearly indicate otherwise. As such,

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff's motion [10] to reconsider the "strike" portion of the Final Judgment entered in this cause is denied.

This the 5th day of August, 2008.

s/ David Bramlette

UNITED STATES DISTRICT JUDGE

¹This case was dismissed without prejudice to the Plaintiff's prosecution of his duplicative pending suit, civil action number 5:08-cv-147-DCB-MTP and in all other respects with prejudice.